

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

MELVIN E. OLSEN,  
Plaintiff,

vs.

RECONTRUST COMPANY NA;  
MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS; STEWART T.  
MATHESON; U.S. BANK NATIONAL  
ASSOCIATION, AS TRUSTEE FOR THE  
BENEFIT OF THE LXC-2007-16N TRUST  
FUND; COUNTRYWIDE BANK FSB; et al.,  
Defendants.

MEMORANDUM DECISION AND  
ORDER DENYING MOTION FOR  
DEFAULT JUDGMENT

Case No. 2:11-CV-81 TS

Plaintiff Melvin E. Olsen moves the Court for an entry of default judgment against Defendants U.S. Bank National Association, as Trustee for the Benefit of the LXS-2007-16N Trust Fund (“U.S. Bank”).<sup>1</sup> Plaintiff alleges to have served U.S. Bank on December 17, 2010, and the time for U.S. Bank to respond to the Complaint has now passed.

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<sup>1</sup>Docket No. 6.

U.S. Bank opposes the Motion, alleging that its failure to timely respond is excused by good cause. U.S. Bank argues that even if the Court were to enter default judgment against it, a default judgment would be set aside because (1) the default was not the result of culpable conduct of U.S. Bank, (2) Plaintiff would not be prejudiced if the default were to be set aside, and (3) U.S. Bank can present meritorious defenses.<sup>2</sup>

The Court agrees with U.S. Bank. Even if this Court were to enter default judgment against U.S. Bank, based on the arguments presented in its opposition to Plaintiff's Motion, the Court would set aside the default against U.S. Bank for good cause. In the interest of judicial economy, therefore, the Court will deny Plaintiff's Motion at the outset.


In U.S. Bank's Opposition, U.S. Bank requested the Court grant it until February 10, 2011, to file a responsive pleading. This date has already passed and U.S. Bank filed a responsive pleading on that date. The Court will accept U.S. Bank's responsive pleading as timely and will consider U.S. Bank's motion on its merits once the briefing on the motion has completed.

It is therefore

ORDERED that Plaintiff's Motion for Default Judgment (Docket No. 4) is DENIED.

DATED February 14, 2011.

BY THE COURT:

  
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TED STEWART  
United States District Judge

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<sup>2</sup>See *Hunt v. Ford Motor Co.*, 65 F.3d 178, 1995 WL 523646, at \*3 (10th Cir. 1995).